

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

RICKKE L. GREEN,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-05-1214-L
)	
THE HON. VIRGIL C. BLACK, DISTRICT)	
JUDGE, OKLAHOMA COUNTY)	
COURTHOUSE; DAVID BROCKMAN,)	
ASSISTANT DISTRICT ATTORNEY,)	
OKLAHOMA COUNTY DISTRICT)	
ATTORNEY'S OFFICE; MARCO J. PALUMBO,)	
ASSISTANT PUBLIC DEFENDER,)	
OKLAHOMA COUNTY PUBLIC DEFENDER'S)	
OFFICE,)	
)	
Defendants.)	

ORDER

This matter is before the court for review of the November 7, 2005 Report and Recommendation entered by United States Magistrate Valerie K. Couch in this civil rights action brought pursuant to 42 U.S.C. § 1983. The Magistrate Judge found that plaintiff is barred by 28 U.S.C. § 1915(g) from proceeding *in forma pauperis* since on three or more prior occasions while incarcerated, plaintiff has brought an action or appeal in a court of the United States that was dismissed on the grounds that it was frivolous, malicious or failed to state a claim upon which relief may be granted. The Magistrate Judge further found that plaintiff has not shown that he is in imminent danger of serious physical injury.

Therefore, the Magistrate Judge recommends that plaintiff's Motion for Leave to Proceed *In Forma Pauperis* be denied and that plaintiff be ordered to pay the \$250 filing fee for this action to proceed. The Magistrate Judge also recommended that plaintiff's Application for Disqualification of Entire Court [Doc. No. 8] and Application for Court Order for Prompt Access to Jail's Law Library [Doc. No. 9] be denied without prejudice to refiling should plaintiff pay the full filing fee.¹ Plaintiff filed "Partial Objections to Magistrate Judge's Report and Recommendation" and also filed an "Application for Extension of Time" which states that he needs access to the jail's law library in order to adequately submit his objections to the Report and Recommendation. Upon review of the basis for the Report and Recommendation, however, the court finds that additional legal research is not necessary.

The Report and Recommendation clearly advises plaintiff of the three prior occasions barring him from proceeding *in forma pauperis*. Due to the court's familiarity with plaintiff's procedural history, the previous dismissals are not subject to dispute. Plaintiff did not and has not denied that he has three prior strikes against him. The previous dismissals are a matter of record and are not subject to dispute. To the extent there were facts sufficient to controvert the three

¹ These two identical motions were also filed in two of plaintiff's other cases, Rickke Leon Green v. Palumbo, et al., CIV-05-1206-L and Rickke L. Green v. Kirby, et al., CIV-05-1192-L. The court denied the two motions in those two cases and its reasoning also supports the denial of the motions in this case.

prior strikes, these facts would be within plaintiff's own knowledge and obviously would not require legal research.

The court also finds that legal research would not be required in order for plaintiff to make a credible allegation of imminent danger of serious physical harm. In sum, the court finds that additional legal research is not required and plaintiff's "Application for Extension of Time" **[Doc. No. 12]** is **DENIED**.

Having conducted a *de novo* review of the matter, the court finds that the Report and Recommendation should be and is hereby adopted in its entirety. **Plaintiff's Motion for Leave to Proceed *In Forma Pauperis* [Doc. No. 2] is DENIED; Plaintiff's Application for Disqualification of Entire Court [Doc. No. 8] is DENIED; Plaintiff's Application for Court Order for Prompt Access to Jail's Law Library [Doc. No. 9] is DENIED. Unless plaintiff pays the \$250 filing fee in full to the clerk of the court within twenty (20) days of the date of this order, this action will be dismissed without prejudice without further notice.**

It is so ordered this 30th day of January, 2006.



TIM LEONARD
United States District Judge